

Sixth Appellate District

San Jose, California

MONDAY, DECEMBER 12, 2005

(no minute approved orders)

TUESDAY, DECEMBER 13, 2005

H028581 PEOPLE v. DANIEL

The judgment is modified to strike the \$10 fine and related \$22.50 penalty assessment. As so modified, the judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed December 13, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; McAdams, J.; and S. Nasson, Deputy Clerk.

H022141 MELCHER v. MELCHER

H022603 MELCHER v. MELCHER

H022935 MELCHER v. MELCHER

H023475 MELCHER v. MELCHER

Causes called and argued by Peter Stubbs appearing for Appellant and by Joel Franklin appearing for Respondent. Causes ordered submitted.

H027376 HOMER J. OLSEN, INC. v. SANTA CLARA VALLEY  
TRANSPORTATION AUTHORITY, et al.

Cause called and argued by Alexander Bannon appearing for Appellant and by Walter Stringfellow appearing for Appellants. Cause ordered submitted. Bamattre-Manoukian, Acting P.J. leaves the bench. Duffy, J. takes the bench.

H028146 YIELD DYNAMICS, INC. v. ZAVECZ; ZAVECZ

H028585 YIELD DYNAMICS, INC. v. ZAVECZ

Causes called and argued by Michael Risch appearing for Appellant and Respondent Yield Dynamics and by Michael Ackerman appearing for Respondent and Appellant ZavecZ. Cause ordered submitted. Court recesses until the 1:30 p.m. calendar.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J.; Bamattre-Manoukian, J.; and W. Magsaysay, Deputy Clerk.



Sixth Appellate District

San Jose, California

Tuesday, December 13, 2005 (continued)

H028501 NAKAI v. WHITE

Cause called and argued by William Hilton appearing for Appellant and by Daniel Halpern appearing for Respondent. Cause ordered submitted. Premo, Acting P.J. leaves the bench. Duffy, J. takes the bench.

H028788 PEOPLE v. DILLARD

Cause called and argued by William Robinson appearing for Appellant and by Martin S. Kaye, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H028844 PROCOPIO REYES ON HABEAS CORPUS

Cause called and argued by Scott Mather, Deputy Attorney General, appearing for Appellant and by Michael Kresser appearing for Respondent. Cause ordered submitted. Court adjourns.

H028274 GUR v. GUR

The order of November 1, 2004, confirming the registration of the Israeli judgment dated October 7, 1999, is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed December 13, 2005

H028563 PEOPLE v. JUSTIN B.

The Juvenile Rehabilitation Placement Order of January 20, 2005, is ordered modified to state that the minor was found to have violated Penal Code section 245, subdivision (a)(1), a felony, with an enhancement under Penal Code section 186.22, subdivision (b)(1)(A), as to both counts 1 and 2, and that his maximum time of confinement is 10 years, 0 months. As so modified, the order is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed December 13, 2005

H028195 PEOPLE v. PEREZ

Upon the court's own motion, due to the necessity of reassignment of the above entitled cause, the submission order dated October 5, 2005, is hereby vacated. The cause herein is ordered resubmitted.

Filed December 13, 2005



Sixth Appellate District

San Jose, California

WEDNESDAY, DECEMBER 14, 2005

H027415 STEWART v. HARTNELL COMMUNITY COLLEGE DISTRICT, et al.  
H028346 STEWART v. HARTNELL COMMUNITY COLLEGE DISTRICT, et al.

The judgment and the order awarding attorney's fees is reversed. Each party to bear its own costs on appeal. (not published)

(Mihara, J.; We concur: Rushing, P.J., McAdams, J.)  
Filed December 14, 2005

H028438 PEOPLE v. KEO

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)  
Filed December 14, 2005

H026515 PEOPLE v. VIRAY

The judgment of conviction is affirmed. The order for reimbursement of county defense costs is reversed for further proceedings consistent with this opinion. (See *People v. Flores* (2003) 30 Cal.4<sup>th</sup> 1059.) (published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed December 14, 2005

H028705 IN RE PHILLIP N.; MONTEREY CO. D.S.S. v. NANCY W.

The order appealed from is affirmed. (not published)  
(Duffy, J.; We concur: Elia, Acting P.J., Bamattre-Manoukian, J.)  
Filed December 14, 2005

H027667 PEOPLE v. GOMEZ-GARCIA

The judgment is affirmed. (not published)  
(McAdams, J.; We concur: Rushing, P.J., Mihara, J.)  
Filed December 14, 2005

H028255 IN RE JUSTIN S.; DFCS v. DEZIRE Q.

We affirm the order of December 14, 2004, terminating appellant's parental rights and freeing Justin for adoption. (not published)

(McAdams, J.; We concur: Rushing, P.J., Mihara, J.)  
Filed December 14, 2005

H028599 PEOPLE v. ROMAYOR

The judgment is affirmed. (not published)  
(Duffy, J.; We concur: Rushing, P.J., Premo, J.)  
Filed December 14, 2005



Sixth Appellate District

San Jose, California

Wednesday, December 14, 2005 (continued)

H028434 MANCINI v. COUNTY OF SANTA CRUZ, et al.

The judgment is affirmed. (not published)  
(Elia, Acting P.J.; We concur: Bamattre-Manoukian, J., Duffy, J.)  
Filed December 14, 2005

H027076 BOLTON, et al. v. HEYERMANN, et al.

We modify the judgment by striking the award of attorney's fees. In all other respects, the judgment is affirmed. Each party to bear his or her own costs on appeal. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)  
Filed December 14, 2005

THURSDAY, DECEMBER 15, 2005

The following cases are submitted this date:

H029039 PEOPLE v. JOSE S.  
H028972 PEOPLE v. TOMMY H.  
H028596 PEOPLE v. ECSTACY L.  
H028843 PEOPLE v. YORK

H028153 RAMSAY HIGHLANDER, INC. v. FRESH EXPRESS, INC., et al.  
By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated November 30, 2005, is hereby vacated. The court by separate letter issued December 14, 2005, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.  
Dated: December 15, 2005 Mihara, Acting P.J.

H028905 PEOPLE v. SIEGFRIED

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)  
Filed December 15, 2005

H026596 PEOPLE v. BIRREY

The judgment is reversed, and the matter is remanded for resentencing in accordance with the views expressed herein. (not published)  
(Mihara, J.; We concur: Rushing, P.J., Premo, J.)  
Filed December 15, 2005



Sixth Appellate District

San Jose, California

Thursday, December 15, 2005 (continued)

H028516 DOREL INDUSTRIES, INC. v. SUPERIOR COURT; JONATHAN JACKSON III, a Minor, etc., et al.

The writ petition is denied. Real parties in interest are awarded their costs in this original proceeding. (published)  
(McAdams, J.; We concur: Rushing, P.J., Premo, J.)  
Filed December 15, 2005

H027777 PEOPLE v. WARDELL

The judgment is reversed, and the matter is remanded for retrial. (not published)  
(Mihara, J.; We concur: Rushing, P.J., McAdams, J.)  
Filed December 15, 2005

H028663 FUJII v. IMMECOR CORPORATION, et al.

The judgment is affirmed. (not published)  
(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)  
Filed December 15, 2005

H028190 PEOPLE v. DRYG

The appeal is dismissed. (Pen. Code § 1237.5; Cal. Rules of Court, rule 30(b).)  
(Elia, Acting P.J., Mihara, J., and McAdams, J., participated in this decision.)  
Filed December 15, 2005

FRIDAY, DECEMBER 16, 2005

H028984 PEOPLE v. TERRY

The judgment is affirmed. (not published)  
(Elia, Acting P.J.; We concur: Mihara, J., McAdams, J.)  
Filed December 16, 2005

H028026 PEOPLE v. CHAIREZ

The judgment is affirmed. (not published)  
(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)  
Filed December 16, 2005

H027710 PEOPLE v. HILL

The judgment is affirmed. (not published)  
(McAdams, J.; I concur: Bamattre-Manoukian, Acting P.J.;  
Dissenting opinion by (Mihara, J.)  
Filed December 16, 2005



Sixth Appellate District

San Jose, California

Friday, December 16, 2005 (continued)

H027871 CHEN, et al. v. LEE, et al.

The judgment is affirmed. (not published)  
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 16, 2005

H028429 PEOPLE v. ROBLEDO

By the Court:

Upon the court's own motion, to allow transmission of trial exhibits to this court, the submission order dated November 4, 2005 is hereby vacated. The cause will be resubmitted when trial exhibits #1 and #2 are lodged in this court.

Dated: December 16, 2005 Elia, Acting P.J.

H027448 PEOPLE v. AIROSO

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed December 16, 2005

H027865 PEOPLE v. QUINTANA

The judgment is modified by striking the parole revocation fine of \$1,200 imposed under Penal Code section 1202.45. As so modified, the judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Duffy, J.)

Filed December 16, 2005

H026669 LORCH v. LORCH, Individually and as Trustee, etc.

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed December 16, 2005

H028788 PEOPLE v. DILLARD

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, J.; We concur: Elia, Acting P.J., Duffy, J.)

Filed December 16, 2005